IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 5375 of 2004

Date of decision : 12.9.2006.

Mohinder Kumar Aggarwal.

.....Petitioner.

Versus

Life Insurance Corporation of India & Ors.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.Harkesh Manuja,Advocate
for the petitioner.

Mr.V.K.Kaushal, Advocate
for Mr. B.R.Mahajan, Advocate
for respondents No. 1 to 3.

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VINOD K. SHARMA,J.(ORAL)

This revision petition has been filed against order dated 20.10.2004 passed by the learned Addl. District Judge, Panipat affirming the order dated 21.3.2003 passed by the learned Civil Judge (Jr.Divn.), Panipat dismissing the application moved by the petitioner under Order 39 Rules 1 & 2 of the Code of Civil Procedure.

The petitioner-plaintiff has filed a suit for declaration with a consequential relief of permanent injunction claiming right to the estate of late Sh. Sham Sunder being his legal heir. Along with the suit the petitioner filed an application under Order 39, Rules 1 & 2 C.P.C. seeking

temporary injunction against defendants No. 1 to 3 from releasing the payment to defendant No.4, who was claiming to be the nominee of late Sh. Sham Sunder.

The learned Courts below on appreciation of documents and averments made by the parties came to the conclusion that no injunction could be granted restraining the defendants No. 1 to 3 from releasing the amount under the policy to defendant No.4, who was registered nominee in their record. While declining the injunction to the petitioner the learned Courts below have clarified that even if the amount is released by defendants No. 1 to 3 in favour of defendant No.4 i.e. nominee of the deceased Sham Sunder, in that event, he shall be holding the amount on behalf of legal heirs/rightful claimants. This finding of the learned Courts below is in consonance with the settled law and does not call for any interference by this court.

The learned counsel for the petitioner thereafter contended that respondent No.4 should be directed to furnish a security to safeguard the interests of the petitioner. This contention of the petitioner cannot be accepted as no such prayer was made by the petitioner before the Courts below.

There is no error in exercise of jurisdiction by the Courts below which may call for interference by this court.

Dismissed.

September 12, 2006. **(VINOD K. SHARMA)**
'sp' **JUDGE**